

Rye City Planning Commission Minutes
March 8, 2005

MEETING ATTENDANCE:

Planning Commission Members:

- Barbara Cummings, Chair
- Martha Monserrate, Vice-Chair
- Nick Everett
- Hugh Greechan
- Peter Larr
- G. Patrick McGunagle
- H. Gerry Seitz

Other:

- Christian K. Miller, AICP, City Planner
 - George Mottarella, P.E., City Engineer
 - Chantal Detlefs, City Naturalist
 - Joe Murphy, CC/AC Chair
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1 **I. HEARINGS**

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1. Yazigi Residence

- Mr. Horsman (applicant's landscape architect) stated that the applicant proposes the construction of an attached garage within a 100-foot wetland buffer. The plan was revised to reduce the extent of increased impervious area to approximately 500 square feet.
- Mr. Horsman stated that a detailed planting plan was prepared for as mitigation for the proposed addition. The planting plan proposes approximately 6,700 square feet of mitigation area. In addition the edge of the wetland boundary will be delineated.
- There was no public comment.

ACTION: Martha Monserrate made a motion, seconded by Nick Everett, that the Planning Commission close the public hearing on wetland permit application number WP163 which was carried by the following vote:

Barbara Cummings, Chair:	Aye
Martha Monserrate, Vice- Chair:	Aye
Nick Everett:	Aye
Hugh Greechan	Aye
G. Patrick McGunagle:	Absent
Peter Larr:	Aye
H. Gerry Seitz:	Aye

2. Hilltop, LLC

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- 1 • Joe Mulligan (applicant's architect) stated that the applicant proposes a garage
2 addition with second floor above. The existing septic system was shown on the
3 plan as requested by the Commission. A new drainage system will be provided
4 to address increased impervious area on the site.
5
- 6 • Mulligan stated that existing residence was constructed in the early 1900s and
7 that the existing garage, breezeway and portion of existing asphalt paving on the
8 site would be removed. Interior renovations are also proposed.
9
- 10 • There was no public comment.

11
12 **ACTION:** Peter Larr made a motion, seconded by Nick Everett, that the Planning
13 Commission close the public hearing on wetland permit application
14 number WP165, which was carried by the following vote:
15

16	Barbara Cummings, Chair:	Aye
17	Martha Monserrate, Vice- Chair:	Aye
18	Nick Everett:	Aye
19	Hugh Greechan	Aye
20	G. Patrick McGunagle:	Absent
21	Peter Larr:	Aye
22	H. Gerry Seitz:	Aye

23 24 25 **3. Lombardi & Sinis Subdivision**

26
27 Mario DeMaro (applicant's attorney) stated that the applicant proposes a 4-lot
28 subdivision at 235 Boston Post Road. The existing structure would remain and three
29 new lots would be created. The application is sensitive to the location and historical
30 nature of the location. All of the lot sizes conform to Code. Two lots would front onto
31 Boston Post Road and the other two would face Morris Court. The character and nature
32 of the area would be kept intact. The existing curb cut on Boston Post Road would be
33 moved south and a second curb cut would be added to the north. The applicant will
34 make the commitment to maintain the integrity of the landscape of the area and limit the
35 overall impact.

36
37 Neil Wexler (resident of 10 Morris Court) stated that he is a member of the Rye Zoning
38 Board, but that he is commenting on the application in his capacity as a neighbor. Mr.
39 Wexler stated that the development would have a major impact on Morris Court. He
40 requested a copy of the application and plans from the applicant to circulate among the
41 neighbors who aren't present at the meeting and that additional comments would be
42 provided at the next meeting. He stated concerns regarding the scale of the new
43 design. He noted no objection to the subdivision but had concerns regarding the
44 details.
45

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1 Mr. Wexler stated concern with the connections from the new subdivision to existing
2 utilities in Morris Court. He noted low water pressure in the morning in the summer time
3 when sprinkles run. Other utilities, such as water supply and sewer may not be
4 adequately sized for additional development. Mr. Wexler questioned the timing of the
5 water and sewer connections and who would pay for the cost of installation.

6
7 Regarding water management Mr. Wexler stated that a number of neighbors
8 complained about flooding in the basement and that appropriate drainage measures
9 should be provided.

10
11 Mr. Wexler stated concerns with construction activities and construction vehicle traffic.
12 He stated safety concerns given that Morris Court is small and there are a lot of small
13 children attended by nannies. He requested that construction vehicles enter the site
14 from Boston Post Road.

15
16 Mr. Wexler stated concerns with potential rock removal.

17
18 Mr. Wexler requested that all permits and approvals required by the City, County and
19 State have clear language so that when properties are sold in the future that new
20 buyers understand exactly building limitations and other property restrictions.

21
22 Suzanne Cleary (resident of 14 Dogwood Lane) stated she was present to request
23 denial of Subdivision proposal in its current form and disallow building, especially on Lot
24 74C. To allow such a subdivision to occur would significantly diminish the stature and
25 the integrity of the Historical Boston Post Road District. Ms. Cleary stated she was at
26 the public hearing in several capacities including as a Rye Resident, as a Rye Garden
27 Club Member and also as a board member of Jay Heritage Center who still believes in
28 the power of Community activism and speech as a means to protect important sites that
29 belong to our public.

30
31 Ms. Cleary stated that the Jay Property is an official project of the Save America
32 Treasures Program and it received this high honor because it is indeed a treasure, set
33 in the crown of the historical Boston Post Road District. This was home to one of our
34 founding fathers and America's first US Supreme Court Justice—John Jay. As visitors
35 and families approach the Jay Mansion from the Boston Post Road they have that rare
36 opportunity to step back in time and admire on both sides of the road the expansive
37 open setting for which the house was designed. It is like seeing a painting in the
38 original frame that the artist made himself.

39
40 Lastly, Ms. Cleary stated she was here along with her children as a mother who hopes
41 the planning commission will think of the thousands of school age children, like her own,
42 whose windows into our nation's past get smaller everyday. She asked the Commission
43 to reject this subdivision in its awkward form and preserve for future generations a wide
44 unencumbered glance of their American Heritage, as it appears uncluttered and green.
45 She stated that without the planning commission's intervention the character of this 18th

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1 and 19th century landscape would be irreparably compromised. Ms. Cleary read into
2 the record a letter (dated March 7, 2005) by John Winthrop Aldrich, former Deputy
3 Commissioner of Historic Preservation for New York State, which also urges the denial
4 for this subdivision request.

5
6 *As one who has been pleased and privileged to collaborate from time to time and*
7 *over more than a quarter century with citizens of Rye -- with property-owners,*
8 *municipal officials and local organizations -- in ongoing efforts to document,*
9 *protect and celebrate historic, architectural and open space resources of national*
10 *significance, I am distressed to learn that the City has been asked to approve a*
11 *residential subdivision at 235 Boston Post Road that would seriously compromise*
12 *the visual setting of one of New York State's finest assets: the Boston Post Road*
13 *National Historic Landmark District. I write respectfully to add my plea to the*
14 *pleas of others, that this request is denied.*

15
16 *In my capacity as an assistant to six successive State Commissioners of*
17 *Environmental Conservation (1974-94) and thereafter as the State's Deputy*
18 *Commissioner for Historic Preservation (1994-2003), not only became intimately*
19 *familiar with the outstanding properties that were eventually to constitute the*
20 *Landmark District, and the dire problems and splendid opportunities confronting*
21 *them, I also was well placed to measure the significance of these assets and*
22 *efforts on a statewide basis. What Rye has in this extraordinary, small, intact*
23 *district of a half-dozen properties is without equal in New York State, amply*
24 *deserving the rare honor of National Historic Landmark designation by the*
25 *Secretary of the Interior; and the fine progress made on several fronts in the*
26 *years since to preserve, restore and interpret the properties has been a model for*
27 *the nation,*

28
29
30 Robert Gaulin (resident of 5 Keane Court) stated that when you approach from the
31 North on the Boston Post Road from the left side you have the Golf Course with the
32 magnificent Whitby Castle and then you have the Parson's home, which is magnificent
33 and then the Jay Heritage House. On the other side is this property at 235, and before it
34 there is a huge piece of land with one house on it.

35
36 Mr. Gaulin also cited concerns regarding increased traffic & curb cuts; especially in light
37 of the existing safety issues at Post Rd intersections at Johnson & Barlow Lanes.

38
39 Finally Mr. Gaulin stated that there are additional items of concern on the drawing. Mr.
40 Gaulin's house is located south of the subdivision and he stated his house is closer than
41 anyone on Morris Court yet neither his residence nor his street (Keane Court) shown.
42 Mr. Gaulin claimed his house was down slope of the subdivision and potential impacts
43 should be addressed. He noted that a 100-foot wooded buffer exists between his
44 property line and for Boston Post Rd. and suggested that a similar feature be

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1 considered for the subdivision. Mr. Gaulin expressed concern that the proposed garage
2 would be visible from the Post Rd.
3
4

5 David Parsons (resident of 240-260 Boston Post Road) read into the record his letter to
6 the Planning Commission dated March 8, 2005:
7

8 *Members of the Planning Commission:*
9

10 *My name is David Parsons, and I live at 240-260 Boston Post Road, almost*
11 *directly across the street from the property, whose subdivision you have under*
12 *review. Although I have only lived in Rye for ten years, as some of you know, my*
13 *family has lived here since the 1820s and among other things, donated to the*
14 *City: the Square House as the City's first City Hall, the land for the Library and*
15 *Village Green and the land on which this newer City Hall stands. I mention this*
16 *not in boast but rather to demonstrate my family's long-term commitment and*
17 *caring for this community.*
18

19 *I will concentrate my comments on the potential impact of the subdivision on the*
20 *character of the Boston Post Road Historic District, because the Commission*
21 *already has asked the Applicant to better address a range of issues including*
22 *curb cuts, drainage, zoning compliance, tree preservation and erosion control. In*
23 *doing so, I would like to object strenuously to the proposed subdivision plan*
24 *submitted by Max Parangi Architect (the Applicant) on behalf of Edward*
25 *Lombardi and John Sinis of Lombardi & Sinis Development. My primary grounds*
26 *for objecting is that the subdivision, as currently proposed, would cause*
27 *irreparable harm to the historically significant section of the Boston Post Road*
28 *designated as the Boston Post Road Historic District.*
29

30 *Instead of reciting all the points in the letter I have submitted, I will highlight a few*
31 *of the most important ones. The Boston Post Road Historic District is a critically*
32 *important treasure trove with significance not just to Rye and Westchester*
33 *County but to New York State and indeed nationally. It includes a number of*
34 *jewels: the Greek Revival Peter Augustus Jay House (built in 1838), now the Jay*
35 *Heritage Center, the Jay Family Cemetery (containing the grave of John Jay, the*
36 *first Chief Justice of the U.S. Supreme Court), the Marshlands Conservancy, the*
37 *Greek Revival Lounsbury (built in 1837 with an eighteenth-century core), the*
38 *Gothic Revival Whitby Castle (built 1852-4) designed by America's foremost 19th-*
39 *centurt architect Alexander Jackson Davis for William P. Chapman, and now the*
40 *home of the Rye Golf Club. A number of the buildings within the District were*
41 *listed individually on the National Register of Historic Places prior to the entire*
42 *district being listed in 1982.*
43

44 *Even more important, the entire district was elevated to a National Historic*
45 *Landmark District in 1993, such status being the highest designation given by the*

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1 U.S. Secretary of the Interior. In order to be elevated to National Historic
2 Landmark status, the district had to be deemed of importance to all Americans.

3
4 Prohibiting any subdivision in this sensitive area is consistent with the City's 1985
5 Development Plan. In the City's Plan, the first two goals for Residential
6 Development are:

- 7
8 1. Maintain Rye's present character of predominantly single family housing
9 surrounded by open space.
10 2. Preserve the physical quality and character of Rye's large, old houses and
11 estates.

12
13 The Plan also sets forth the sole goal of Historic Preservation:

- 14 ■ Preserve and maintain the valuable historic, cultural, architectural and
15 archaeological heritage of Rye, for the benefit of the City's present and
16 future residents.

17
18 Three of the Plan's Historic Preservation policies apply here:

- 19 1. Preserve Rye's many buildings of extraordinary beauty and visually
20 cohesive districts that contribute to the City's strong aesthetic and cultural
21 image.
22 2. Encourage the preservation of those districts or neighborhoods that for
23 historic preservation purposes possess an identifiable, cohesive character.
24 The first one listed is the Boston Post Road Historic District.
25 3. Establish guidelines to regulate exterior renovation and adjacent
26 development in order to preserve the quality of historic buildings and
27 properties.

28
29 Rye went even further in 1989 by adding to the Landmarks Preservation section
30 of its General Code Section 117-9, which authorizes the Planning Commission in
31 connection with subdivision approval to set special conditions, regulations or
32 restrictions on alterations, additions or new construction in the vicinity of property
33 landmarked pursuant to this Chapter. The Chapter describes six sites in all of
34 Rye. Three of the six have their principal entrances directly across the street
35 from the proposed subdivision: Alansten (the Peter Augustus Jay house), the
36 Jay Family Cemetery and Lounsberry. Thus the Commission is in a particularly
37 key role in reviewing the subdivision proposed by Mr. Parangi on behalf of
38 Messrs. Lombardi and Sinis. If this provision doesn't apply here, I don't know
39 where it would apply.

40
41 Given the potential impact on the Boston Post Road Historic District and on the
42 entrance to a County nature preserve, I urge the Commission to require the
43 developer to submit a full Environmental Impact Statement. There already have
44 been some developments at the edge of the historic district, such as the

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1 *Preserve. Bear in mind that under State Environmental Quality Review Act, it is*
2 *the cumulative impacts need to be assessed.*

3
4 *The parcel itself was originally part of the Jay Family farm. An 1858 survey*
5 *shows the property as orchard with a building in the approximate location of the*
6 *existing house. Most troubling in the proposed subdivision is Lot 74C, which*
7 *would allow for construction of a new residence along the Boston Post Road*
8 *directly across from the midpoint of this National Historic Landmark District and*
9 *across from the very entrances to the Jay Heritage Center, the Marshlands*
10 *Conservancy, the Jay Family Cemetery and Lounsberry. This is one of the most*
11 *critical areas because it is the point of entry and exit to these historic resources.*

12
13 *The existing lot is reportedly 2.465 acres in size and lies in an R-2 zoning district,*
14 *which requires a minimum of half-acre zoning. The Applicant has proposed*
15 *subdividing the parcel into the maximum number of permissible lots without*
16 *regard for the impact on this historically sensitive area. Even beyond the District,*
17 *the immediate area generally contains houses on lots that considerably exceed*
18 *one-half acre despite what is permitted under the zoning regulations. Even in the*
19 *Preserve, at the edge of the Historic District, the developer was prohibited from*
20 *building to the maximum allowable. Thus subdividing the parcel as proposed*
21 *would set a new precedent that would be out of keeping with its surroundings.*

22
23 *In addition to requiring the developer to prepare a full environmental impact*
24 *statement, I would like to request that the Planning Commission impose the*
25 *following restrictions and limitations on the subdivision. While these restrictions*
26 *would not eliminate the harm done to the District, they would help to mitigate its*
27 *impact:*

- 28
29 1. *Ideally, no subdivision should be permitted. Short of that, limit the*
30 *subdivision to one or two lots, with any new lots abutting Morris Court and*
31 *no new lot along the Boston Post Road. If three lots are permitted, they*
32 *should be sized so that each single lot would be less than an acre, thereby*
33 *precluding any future subdivision without a zoning change or variance.*
34
35 2. *Require that any new access not be from the Boston Post Road. This*
36 *would eliminate the two new curb cuts proposed on the Post Road and do*
37 *away with all traffic sightline concerns.*
38
39 3. *Require a minimum 100-foot setback for any new building or auxiliary*
40 *structure on the property from the edge of the Boston Post Road. While*
41 *there is a more general 100-foot setback required from the centerline of*
42 *the Post Road from the Mamaroneck Town Line to Central Avenue, given*
43 *the particularly critical location of the proposed subdivision, the setback*
44 *should be from the edge of the road rather than from its centerline. This*

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1 *would help to reduce the visual impact on the District of any new*
2 *structures.*

3
4 4. *Plant a substantial and dense, predominantly evergreen buffer at least 50*
5 *feet deep along the southern edge of the property. This would help to*
6 *screen any new structures and attendant lighting from the Boston Post*
7 *Road Historic District and generally enhance the area.*

8
9 5. *Construct a stonewall along the southern edge of the property similar in*
10 *style and type of stone to the one on the southern edge of 15 Bradford*
11 *Avenue. This would extend an important character-defining element to the*
12 *area and serve to enhance the District.*

13
14 6. *Reserve sufficient space for a possible future sidewalk along the north*
15 *side of the Boston Post Road. While a sidewalk was not necessary or*
16 *especially desirable prior to the recent development of that side of the*
17 *Post Road, with the recent subdivisions of the "Preserve" and "Hannan*
18 *Place," it is becoming increasingly important to add one. People now*
19 *regularly walk and jog along that side of the Post Road, and provision*
20 *should start to be made to accommodate them safely. For now, reserving*
21 *sufficient space for a sidewalk should be adequate.*

22
23 *While disallowing the subdivision completely would be the best outcome from the*
24 *point of view of fully protecting the District and retaining the character of the*
25 *neighborhood, as a businessman, I recognize that such an alternative may not be*
26 *realistic. But the negative impact of subdivision and the subsequent*
27 *development it could facilitate must be mitigated as much as possible and as*
28 *early in the process as possible. I respectfully request that the Commission*
29 *require a full environmental assessment and consider imposing the restrictions*
30 *and limitations I and others have outlined this evening. Thank you.*

31
32 Carol Cunningham (resident of 18 Soundview Ave.) stated that she was a former City
33 Council and Planning Commission member. She stated that she agreed with everything
34 that Mr. Parsons stated.

35
36 Mr. Cunningham stated she lives in the area near the Historical District and she wants
37 everyone on the committee to know that this is one of the most sensitive areas in the
38 City and deserves the Commission's complete attention. Ms. Cunningham stated that
39 she thought all of the speakers had made valid points.

40
41 Ms. Cunningham stated that the 100-foot buffer on the Post Road has been in place
42 way before she was on the Planning Commission and the Commission. She questioned
43 whether the buffer restriction was from the edge or center of the road. The City Planner
44 responded that the City Zoning Code requires a setback from the center of Boston Post

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1 Road. Ms. Cunningham stated that David had a very good point about the sensitivity of
2 this site and that requiring even more buffer may be necessary.

3
4 Ms. Cunningham offered a letter for the record from Professor Nicholas Robinson of the
5 Pace Law School who is an expert, among other things, on the State Environmental
6 Quality Review Act also known as SEQRA. Ms. Cunningham stated that she thinks Mr.
7 Robinson was given some misinformation since the letter states that the Planning
8 Commission failed to make the required SEQRA lead agency determination before
9 proceeding with the public hearing on the site plan. Ms. Cunningham questioned the
10 Commission if that was correct. The City Planner stated that the Commission has done
11 a coordinated review under SEQRA and that they have not issued a significance
12 determination. Mr. Miller stated that the City had just received the letter that day and
13 that the city will look at those comments very carefully.

14
15 Ms. Cunningham read some of the paragraphs from his letter. Ms. Cunningham stated
16 that Nick is also very familiar with Rye because on page 3 he says that:

17
18 *I have been privileged to assist Rye in the past to understand its duties under*
19 *SEQRA with respect to this location. Edith Read often called upon me to*
20 *discuss the development of this historic part of Westchester, including the City's*
21 *decision to divest itself of the historic Parson's property so that its historic*
22 *values could maintain under family stewardship. For some time, I have been a*
23 *member of the Board of Directors of the John Jay Heritage Center, and for a*
24 *period before that the Rye Corporation Counsel had retained me to serve as*
25 *Special counsel to the City of Rye on SEQRA compliance with respect to a*
26 *possible subdivision of the site on which the Peter Jay House sits. I know that*
27 *Rye has, can, and therefore should decide, conservatively, to follow the letter of*
28 *the law with respect to Rye's duties under SEQRA. You may wish to review the*
29 *history of prior litigation involving the protection of this important location. It*
30 *would be a pity to see a recurrence of such litigation, should the City of Rye not*
31 *closely adhere to its SEQRA duties.*

32
33 Ms. Cunningham requested that the Commission adhere to its SEQRA duties. She
34 added that Mr. Robinson apologized for not being at the meeting tonight but she is sure
35 that he will be involved. Ms. Cunningham continued from page 2 of Mr. Robinson's
36 letter:

37
38 *Given the authority in SEQRA to mitigate adverse environmental impacts, and*
39 *the provisions of the City of Rye General Code, Chapter 1117-9, you have*
40 *ample legal authority to limit the development of this site, as an exercise of your*
41 *police powers, in order to protect the adjacent historic properties. Just because*
42 *this site is zoned in an R-2 zone does not mean that the maximum density*
43 *allowed in such a zone is permissible: under SEQRA, that density can be*
44 *restricted further in order to protect historic landmarks. If the decision were*
45 *properly determined, on a full record and in compliance with SEQRA,*

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1 *appropriate development restrictions can be required lawfully, without giving*
2 *arise to any possible unconstitutional taking of private property. (See*
3 *Pennsylvania Transportation Company, v. City of New York, 438 U.S. 104*
4 *(1978)).*

5
6 Ms. Cunningham stated that she feels that ideally it would be lovely not to have the
7 subdivision at all. If one is allowed, no more than two or three buildings be put on that
8 site because it would, in her opinion, alter the visual effect should the Historical District
9 Area. It shouldn't take away from the Historical District. When people come from Port
10 Chester or Mamaroneck or anywhere else in New York State when they get on this
11 section of the Post Road they should say, "What's happened?" That is something that
12 all of us who live here a long time or short time treasure. Ms. Cunningham stated that
13 she puts the decision in the commission's very good hands and hopes that you will
14 listen to all the speakers. This site deserves not to be developed to the maximum.
15 Thanks

16
17 Arlene Wexler (resident of 10 Morris Court) stated that parking on Morris Court is an
18 issue. There is no restriction on parking on either side of the street. In the last year two
19 houses were sold and they had open houses and showings. When there was an
20 opening with parking on both sides no emergency vehicle could get through. It was
21 quite dangerous and she was quite concerned about that issue but certainly in light of
22 construction vehicle coming in with parking on both sides that is a major concern. Ms.
23 Wexler stated that with many young children on the street they will have to address
24 safety concerns. The same thing happens when there is a party on the street and cars
25 are parked on both sides he has trouble getting her car through.

26
27 Ms. Wexler also expressed concerns regarding traffic. She claimed that when she exits
28 Bradford Avenue onto the Boston Post Rd. each morning, she has difficulty turning in
29 either direction. She stated that there are days that she has to wait 3 or 4 minutes
30 before turning out of Bradford Avenue onto Boston Post Road and she would like the
31 Commission to consider the traffic impact of the proposed subdivisions as well
32 construction traffic. She is concerned with early morning construction noise. Ms. Wexler
33 requested the Commission consider the proposed construction hours. She stated that
34 she is concerned with early morning construction noise. She requested that the
35 Commission consider a limitation on construction in line with not only historical concerns
36 that have been raised, but also with the practical issues of people residing in a
37 neighborhood.

38 Ms. Wexler also suggested the need for a sidewalk along the Post Rd.

39
40 Doug McKean (resident of 35 Halstead Place) thanked David Parsons, whose family
41 has been here a hundred years more than his. He stated that Mr. Parsons had
42 prepared a very good statement as to why no subdivision should be allowed or that
43 severe restriction be put in place with the site.

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1 Mr. McKean stated a concern about creating an additional driveway on the Boston Post
2 Road. He noted that the driveway would be located on a curve, which lacks proper
3 sight distance. Mr. McKean added that he is as concerned as David Parsons regarding
4 the historic impact. He noted that he was part of the team to protect and preserve the
5 Historical District of which the Jay Heritage is so much a part of.

6
7 Mr. McKean stated that his concern is regarding vehicle safety. He stated that he sat
8 on the Board when the debate went back and forth on the light down the road (Barlow
9 Lane and Boston Post Road). In particular, he noted that as you are coming from Rye;
10 there is a blinding sunset so that you can't see enough to have a traffic light in the area.
11 Mr. McKean stated that if you can't see a traffic light how can you see a car coming out
12 of the proposed curb-cut on Boston Post Road. During his time on the Planning
13 Commission and City Council he heard those concerns about this area.

14
15 Russell Cecil (resident of 56 Lynden Street) stated he was a former Chairman of the
16 Board of Architectural Review and former Board Member of the Rye Golf Club, long
17 time member of the Landmarks Advisory Committee and Presently Vice-President of
18 Jay.

19
20 Mr. Cecil questioned the project architect as to whether the houses that are shown are
21 really like anything that they can expect to have happen there. He stated that he would
22 expect them to be larger in their footprint. He noted this concern because if the homes
23 are shown small it gives an impression of a bucolic setting, which could change in the
24 future. This is the kind of thing he stated that the Planning Commission should pay
25 attention to. Mr. Cecil suggested that there is a possibility here for cluster zoning, which
26 would create an opportunity to preserve the Post Road lot and create a flag lot that
27 would have access and be closer to Morris Court. Mr. Cecil stated that this kind of
28 thinking shows possible compromise can happen and suggested that the developer
29 work with the Planning Commission and find some kind of mutual agreement.

30
31 Lloyd Cantu (resident of 12 Morris Court) stated that he is against this Subdivision. Mr.
32 Cantu stated that there are a number of families with young children on this block that
33 are taken care of by nannies during the day and more children on the way and they are
34 very concerned about safety during the construction. They are opposed to it, but if the
35 subdivision does go through they hope that safety is a top priority given the number of
36 small children that are constantly in the area, not just at night but during the day as well.
37 He agreed with earlier suggestions that the large construction vehicles enter the site
38 from Boston Post Road. Mr. Cantu stated that he is concerned about noise and its
39 impact on children, many of which are at home during the day. He suggested some
40 limitation be improved on the hours of construction. Mr. Cantu also expressed concern
41 regarding parking and construction vehicles. If vehicles are allowed to enter through
42 Morris Court, they can cause a safety problem/congestion problem and overall safety
43 hazard.

44

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1 Anne Stillman (Executive Director of the Jay Heritage Center, located at 210 Boston
2 Post Road) stated that the Jay Heritage Center is located directly across the street from
3 235 Boston Post Road. Ms. Stillman stated that before working at the Jay Center, she
4 was the author of studies and articles on development trends affecting historic
5 preservation, published by the National Trust for Historic Preservation, the National
6 Main Street Center, and the American Planning Association. Ms. Stillman read from her
7 March 4, 2005 letter:

8
9 *On behalf of the Jay Heritage Center, I would like to urge the Planning
10 Commission to reject the subdivision application in its current form. The Jay
11 Center is part of the Boston Post Road Historic District, which was named a
12 National Historic Landmark by the U.S. Department of the Interior in 1993.
13 National Historic Landmark is the highest historic designation conferred by the
14 federal government. Only 3% of properties listed in the National Register of
15 Historic Places, which is already a designation of significance, achieve National
16 Historic Landmark status. In addition, as you know, the Jay Heritage Center's
17 buildings (the Jay Mansion and the Carriage House) and the surrounding 23
18 acres (under the name of Alansten) are land marked by the City of Rye, as is the
19 Parsons estate to the immediate north.*

20
21 *Section 117-9 of the General Code, City of Rye, NY, says, " The Planning
22 Commission, in connection with site plan or subdivision approval, is authorized to
23 set special conditions, regulations or restrictions on alterations, additions or new
24 construction in the vicinity of property land marked pursuant to this chapter to
25 protect that property." The land at 235 Boston Post Road is not only in the
26 vicinity of the Jay Property, but, in fact, used to be part of the Jay Property. This
27 can be seen on the map from 1858, which I submitted on Friday.*

28
29 *I urge the Commission to use its authority in this case to prevent what would
30 become a jarring modern intrusion into the heart of the historic district by
31 disallowing proposed lot 74C, which would be located opposite the entrances to
32 the Jay Heritage Center and the Marshlands Conservancy.*

33
34 **Historically this section of the Boston Post Road was characterized by**
35 **estates with houses set back from the street on large parcels, and that**
36 **character has been maintained to a great degree. In contrast, Lot 74C**
37 **would include a large house of new construction on a small parcel set**
38 **closer to the Boston Post Road. It would compromise the well-preserved**
39 **character of this section of the road. In addition, this discordant modern**
40 **intrusion would directly confront anyone exiting the Jay Heritage Center or**
41 **the Marshlands Conservancy, both of which are open to the public and are**
42 **assets to the quality of life in Rye.**

43
44 *I would also like to ask the Commission to locate driveway access for all the*
45 *subdivision's lots off of Morris Court, rather than the Boston Post Road. New*

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1 *curb cuts on the Boston Post Road would disrupt the effectiveness of a “greenery*
2 *buffer zone,” which was recommended in the written comments by the Board of*
3 *Architectural Review. Access off of Morris Court would also undoubtedly improve*
4 *safety, since there is already a cluster of three driveways across the street. My*
5 *staff and I have often had the very unsettling experience of our cars nearly being*
6 *hit from the rear when slowing down to turn into our driveway.*

7
8 *In the unfortunate event that any new construction is permitted fronting the*
9 *Boston Post Road, we request an extensive buffer of trees and shrubs with an*
10 *emphasis on evergreens. Reconstruction of the dry stone wall that was removed*
11 *in the 1920s, when the Boston Post Road was straightened, might help to retain*
12 *the historical estate-like quality of the area. Stone walls now exist on both sides*
13 *of the Boston Post Road north to the intersections with Soundview Avenue and*
14 *Glen Oaks Drive.*

15
16 Ms. Stillman stated that the Jay Heritage Center was not sent an official notice of the
17 March 8 hearing, despite the fact that the Jay property is located far less than 500 feet
18 from the perimeter of 235 Boston Post Road.

19
20 The City Planner responded that he heard that there was a concern regarding the notice
21 and reviewed the file to confirm. The City Planner stated that the law requires that the
22 notice go to the property owner as maintained on the Rye City Assessor's tax rolls. The
23 City Planner stated that the Assessor's records indicate that the County of Westchester
24 owns the property in question and they were notified. The City Planner sympathized
25 with Ms. Stillman's concerns, but confirmed that the applicant circulated the notice
26 consistent with the information provided by the Tax Assessor.

27
28 Anne Stillman replied that unfortunately, the Tax Assessor's office is wrong, because
29 they (Jay Heritage Center) do own property there although it's surrounded by County
30 land. The City Planner stated that he's not sure when the ownership on the property
31 was changed, but recommended advising the Tax Assessor of the change. Ms.
32 Stillman stated that it occurred when the deed was transferred from a former developer
33 of the property, Millstein, to the County and State and at the same time to the Jay
34 Heritage Center.

35
36 The City Planner confirmed that the notice provisions of the City's Subdivision
37 Regulations had been complied with.

38
39 Ms. Stillman continued to read from her letter to the Commission:

40
41 *These comments are respectfully submitted to encourage the Commission to*
42 *do everything it can in this case to further the goal of the City of Rye*
43 *Development Plan to, “Preserve and maintain the valuable historic, cultural,*
44 *architectural and archaeological heritage of Rye, for the benefit of the city's*
45 *present and future residents.”*

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Ms. Stillman read a letter from Theodara S. Budnik, President of the Jay Cemetery Association:

As President of the Jay Cemetery Association, I am writing to express grave concern about the proposal to maximally subdivide the lot across the road from the shared entrance to the cemetery and the Marshlands Conservancy. In a rapidly changing and ever more crowded part of Westchester County, this is a rare pocket of both historic and natural importance. Many good people have come together and worked hard to protect the land around the cemetery from uncontrolled development, and the result has been a treasure for all to enjoy. Visitors marvel at the beauty and peace of the area. I would surmise that property values are most likely enhanced by proximity to the area. It therefore seems counterintuitive to maximally subdivide such a lot. Working with the land conservation community here in Dutchess County, we have found that property values actually increase when we place restrictive easements on larger parcels, which are harder to come by and thus more desirable to the discerning buyer. I very much hope that the developer and the Planning Commission will seriously reconsider the subdivision as planned.

Neil Wexler (resident of 10 Morris Court) responded to comments made earlier in the hearing regarding curb cuts on the Boston Post Road. Mr. Wexler stated that there are eight houses now on Morris Court. The new subdivision on Morris Court with construction of three new houses will entail a lot of construction equipment. Equipment, employees and personal automobiles will be parked on the street and there will be a great deal of disruption to Morris Court. Mr. Wexler requested that the Commission consider, if not a permanent, at least a temporary cut for construction on Boston Post Road and require that all construction activities occur off of Boston Post Road instead of Morris Court. Mr. Wexler stated that that would let the neighbors/taxpayers continue with their lives in the City of Rye. Safety would also be enhanced with a temporary curb cut directing all traffic to the construction site through Boston Post Road rather than through Morris Court. Mr. Wexler stated that after the project is completed final curb cuts would be provided for the residences on Morris Court.

Planning Commission Chair Barbara Cumming stated that the Commission heard a lot of comments raised regarding impacts on the Historic District, traffic safety, curb cuts, access, utilities and screening. It seemed clear to Ms. Cummings, and she assumed to other members of the board, that they will be leaving the hearing open. Ms. Cummings stated that the applicant could address comments if they wished.

Larry Nardecchia (applicant's engineer) stated that he is a licensed professional engineer and has served for 37 years in Westchester County as a municipal engineer including past positions as City Engineer of the City of Peekskill, Town Engineer for the Town of Greenburgh and is currently working in private practice as a consultant engineer.

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1

2 Mr. Nardecchia stated that all four houses will be served by sewer including the existing
3 house and the three new residences. The sewer will connect to the existing sewer line
4 in Morris Court, which has an 8-inch gravity line and has the capacity to handle the
5 three new developments.

6

7 He stated that the site will not have blasting. The test pits have not found rock but that
8 rock that may be encountered will be removed by chipping, not blasting.

9

10 Mr. Nardecchia stated that the existing driveway is being located to a safer location. He
11 stated that currently the driveway is at its worse possible location and is being moved
12 approximately 100 ft. The two driveways that are proposed are 110-ft apart.

13

14 Regarding questions about water drainage and runoff Mr. Nardecchia stated that a
15 drainage analysis was submitted. The three new lots are designed for zero additional
16 runoff, which means that all the runoff from added impervious areas will be retained on
17 the site in dry wells up to a 25-year storm. A 25- year storm is 5.7 inches in 24 hours,
18 which is the drainage criterion. In addition, they will be installing dry wells, which
19 currently do not exist, for the present structure so the entire site as a whole is going to
20 reduce the drainage runoff after the construction is finished in all instances up to the 25-
21 year storm by at least 14%.

22

23 Mr. Nardecchia stated that vehicle sight distance is limited by an existing wall on an
24 adjacent property. The parcel to the east, the property line projects within a few feet of
25 the curb and the wall so that is a significant problem. He stated that this problem is off
26 the applicant's site. An improvement that could be made to that wall would be to reset it
27 at a more favorable location.

28

29 Mr. Nardecchia stated that the plan provides area for a possible future sidewalk along
30 Boston Post Road and that these are subjects the applicant is willing to discuss.

31

32 Mario DeMarco (applicant's attorney) addressed a comment raised in the public hearing
33 regarding what kind of homes would be constructed. Mr. DeMarco stated that they are
34 not at that phase right now, it's just a subdivision, but stated that the applicant does a lot
35 of work around Rye. If you have seen his work, he is planning on playing a role in
36 construction of homes for this subdivision. Mr. DeMarco stated that his work borders on
37 art. Mr. DeMarco stated that he knows Arlene Wexler and sees her on a semi-regular
38 basis and stated that the end product would be something that they would all be proud
39 of.

40

41 Mr. DeMarco stated that the applicant is highly sensitive to the comments of the public.
42 He stated that he sat on a committee that appointed members of the Planning Board of
43 another municipality and he can assure the public that this Commission put them
44 through their paces. He stated that the applicant had a number of work sessions and
45 that almost all the things that the public raised were considered and analyzed by the

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1 Commission and the applicant. He stated that the application is sensitive to the Historic
2 character of the area and that he believes that the application will enhance the value of
3 neighboring properties.

4
5 Chair Cummings stated that the Commission will continue this hearing at the next
6 meeting and they will be having their work session to discuss all of the comments.

7
8 David Parsons added that he believed that Mr. DeMarco misrepresented something,
9 which needs to be clarified. He talked to Mr. Lombardi last week by telephone and he
10 told him that they were going to sell three of the parcels to someone else meaning that
11 Mr. John Sinis would not be the person constructing the residences.

12
13 Doug McKean questioned the size of the dry wells and stated that they should be sized
14 for a 100-year storm event given the apparent increasing frequency of these events in
15 recent years.

16
17 **ACTION:** Peter Larr made a motion, seconded by Nick Everett, that the Planning
18 Commission continue the public hearing to its next meeting on March 29,
19 2005 on preliminary subdivision application number SUB288, which was
20 carried by the following vote:

21
22 Barbara Cummings, Chair: Aye
23 Martha Monserrate, Vice- Chair: Aye
24 Nick Everett: Aye
25 Hugh Greechan Aye
26 G. Patrick McGunagle: Absent
27 Peter Larr: Aye
28
29

30 **II. ITEMS PENDING ACTION**

31
32 **1. Yazigi Residence**

- 33
34 • The Commission reviewed and found acceptable the revised plan and conditions
35 of approval in the draft resolution.

36
37 **ACTION:** Peter Larr made a motion, seconded by Gerry Seitz, that the Planning
38 Commission conditionally approve wetland permit application number
39 WP# 163 which was carried by the following vote:

40
41 Barbara Cummings, Chair: Aye
42 Martha Monserrate, Vice- Chair: Aye
43 Nick Everett: Aye
44 Hugh Greechan Aye
45 G. Patrick McGunagle: Absent

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1 Peter Larr: Aye
2 H. Gerry Seitz: Aye
3
4

5 **2. Hilltop, LLC**
6

- 7 • The Commission discussed the proposed septic system. Mr. Mulligan stated that
8 the system is not required to be installed by Westchester County Department of
9 Health since no increase in bedrooms is proposed. Mr. Mulligan stated,
10 however, that the applicant would likely install the system.
11
12 • Commission reiterated its previous request to consider reducing the size of the
13 patio on the north side of the residence. The Commission stated that the patio
14 should stay within the zoning setback for a side yard and reduced in scope. The
15 Commission stated that a smaller patio would still meet the applicant's needs and
16 have less impact on the wetland buffer and neighbors. Mr. Mulligan stated that
17 he would consider the change with his client and prepare revised plans for the
18 Commission's consideration at their next meeting.
19

20 **3. Lombardi & Sinis Subdivision**
21

- 22 • The City Planner discussed the SEQRA process and that if the Commission
23 found that the application has significant adverse environmental impacts that it
24 should issue a positive declaration. The City Planner stated that it is the
25 Commission's practice to defer making a determination of significance until after
26 a public hearing has been conducted.
27
28 • The Commission requested that the application be referred to the City's
29 Landmarks Advisory Committee for their consideration and comment.
30
31 • Commission noted concern with proposed Lot 74C, including the safety and
32 available sight distance of the driveway serving as access for this lot from Boston
33 Post Road and the impact the residence could have on the National Historic
34 District. The Commission noted the goals of the City Development Plan and
35 Subdivision Regulations in preserving the character of the Boston Post Road
36 corridor.
37
38 • The Commission requested that the sight distance analysis should be revised to
39 consider the amount of traffic volume on Boston Post Road. This roadway has
40 considerable traffic volume that provides little opportunity for breaks in traffic to
41 allow vehicles to exit the site.
42
43 • The Commission stated that the proposed landscape buffer, driveway
44 modifications, house orientation restrictions and supplemental setbacks already
45 requested by the Commission may still not be enough to avoid adverse impacts

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1 of Lot 74C on the character of the historic district. The Commission stated that
2 as currently proposed it was inclined to issue a positive declaration. The
3 Commission stated that a three-lot subdivision would significantly reduce these
4 impacts and likely negate the need for a positive declaration.
5

- 6 • Max Paringi (applicant's architect) stated that the revised plan, including the
7 increased setback of the residence on Lot 74C and proposed landscape buffer
8 would be sensitive to the historic district. Mr. Paringi stated that the applicant
9 would consider further modifications to the plan.
10
- 11 • Larry Nardecchia (applicant's engineer) discussed his drainage design. The City
12 Engineer confirmed that the proposed design complies with the requirements of
13 the City Code.
14
- 15 • The Commission requested that the applicant prepare a revised plan for its
16 consideration at its next meeting.
17

18 19 **4. Rose Residence**

- 20
- 21 • The Commission questioned Dan Natchez (applicant's consultant) regarding the
22 construction process for the proposed wall. Mr. Natchez confirmed that no
23 mechanical equipment will be used and that the wall would be built in 20-foot
24 sections to avoid high tides and the limitations of handwork. Construction would
25 take up to 12 weeks. Mr. Natchez stated that concrete for the wall would be
26 pumped over the residence from a truck located in the front yard. A barge
27 cannot be used at the site due to the shallow depth of water. Construction
28 vehicles would not be brought through the adjacent Read property.
29
- 30 • The Commission requested that the applicant consider measures to reduce the
31 aesthetic impact of the wall on those viewing the "concrete blanket" from Long
32 Island Sound. Color tinting of the concrete and use of concrete forms were
33 discussed. However, Mr. Natchez stated that these features would undermine
34 the structural integrity of the concrete blanket. Providing more aggregate in the
35 concrete mix was also discussed as a possible mitigation measure. However,
36 heavy aggregate is not possible since it cannot be pumped over the residence,
37 which is the only way to get concrete to the site.
38
- 39 • Mr. Natchez stated that the applicant would use best management practices
40 during construction to prevent dumping of material into Long Island Sound.
41
- 42 • The Commission requested that the applicant consider measures to address the
43 potential aesthetic impacts of the wall.
44

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1 **ACTION:** Peter Larr made a motion, seconded by Gerry Seitz, that the Planning
2 Commission set the public hearing for its next meeting on wetland permit
3 application number WP 167, which was carried by the following vote:
4
5 Barbara Cummings, Chair: Aye
6 Martha Monserrate, Vice- Chair: Aye
7 Nick Everett: Aye
8 Hugh Greechan Aye
9 G. Patrick McGunagle: Absent
10 Peter Larr: Aye
11 H. Gerry Seitz: Aye
12
13

14 5. McGovern Residence

- 15
- 16 • Pam Lester (applicant's landscape architect) stated that the applicant is
17 proposing to level off a portion of the yard to create a play area for children. Ms.
18 Lester stated that nearly the entire property is located within a wetland or wetland
19 buffer, leaving little alternative locations for the play area.
20
 - 21 • The City Planner noted that the oversize lot did not have subdivision potential
22 due to zoning and environmental restrictions.
23
 - 24 • The Commission stated concern with the applicant's proposal noting that it would
25 increase the extent of managed lawn within 20 feet of an existing wetland. The
26 Commission also noted concern with the extent of fill proposed within the buffer.
27 The Commission stated that the need for a play area was temporary since as the
28 children grow it will not be used, but the impact of the proposal would be
29 permanent. Other members suggested that the application appeared reasonable
30 and the proposed wall and plantings would provide an enhanced wetland buffer.
31
 - 32 • The Commission stated that the applicant should consider alternative locations
33 for the play area to reduce the impact on the wetland buffer. The Commission
34 suggested that the area close to the existing driveway might be more
35 appropriate.
36
 - 37 • The Commission noted that it would not set a hearing until revised plans were
38 prepared and it received the comments of the CC/AC.
39

40 6. Walsh Residence

- 41
- 42 • Sam Seymour (applicant's architect) provided an overview of the application.
43

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- 1 • The Commission requested that the extent of the proposed gravel driveway be
2 significantly reduced. The Commission noted that the proposed turn around
3 required fill and encroached into an easement area on an adjacent property. The
4 Commission noted that the applicant may not have the right to place such fill in
5 the easement and that the placement of fill within a designated flood zone was
6 not permitted by the City Code. The Commission stated that the gravel
7 turnaround was not necessary and that the existing driveway area readily
8 accommodated multiple vehicles.
9
- 10 • The Commission requested that the existing vegetation on the site be preserved.
11 The landscape design was not only attractive, but consisted of plant material that
12 was supportive of a tidal wetland buffer.
13
- 14 • The Commission questioned the appropriateness of the proposed garage given
15 the site's vulnerability to coastal flooding. The City Planner stated that the
16 proposed garage would be impacted by flooding events, but complied with the
17 City's Floodplain Management Law.
18
- 19 • The Commission stated that the proposed garage would encourage the parking
20 of vehicles in an existing open area on the site. Parked vehicles in this
21 prominent location would have an adverse aesthetic impact and be visible to a
22 number of properties and those in Long Island Sound.
23
- 24 • The Commission stated that the extent of impervious area around the pool
25 appeared excessive in meeting the applicant's reasonable needs. The
26 Commission requested that the pool terrace could be reconfigured, but that the
27 overall amount of terrace remain the same.
28
- 29 • The Commission questioned the feasibility of the proposed sewer extension
30 given its distance to a sewer connection in Forest Avenue and the number of
31 private properties that would need to be crossed, which the applicant may not
32 have the right to such an extension. The Commission requested that this
33 proposal will require more information before it is approved by the Commission.
34
- 35 • The applicant was requested by the Commission to identify the location of the
36 existing septic system and confirm that the proposed project would not adversely
37 impact this existing system.
38
- 39 • The Commission had no objection to the proposed modification to the front of the
40 residence.
41
42

43 7. Minutes

44

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- 1 • The Commission approved with minor modifications the draft meeting minutes
- 2 of its February 22, 2005 meeting.
- 3